for the end to which it directs men is higher than the end of the political order.

That is what they say. He quoted him, so he must not believe in the separation of church and State. But what did he say? Holmes was contrasting Christianity with the pagan religions about which Aristotle wrote in which religious activities are political concerns. The speech makes the point that Christianity looks to an ultimate source of authority beyond Earthly authority, and that is God.

I mean, give him a break.

Holmes notes that the model of assigning religious and political matters to separate spheres is favored by modern liberalism, including John Locke, Thomas Jefferson, and Alexis de Tocqueville, and the modern Catholic Church. He urges us not to miss the strengths of de Tocqueville's argument that the church is stronger when separate from the State. Holmes offers his own theological grounds for the separation of church and State, and yet one would think he was not.

Another charge is that Holmes is unwilling to recuse himself from cases involving anti-abortion organizations or abortion matters. He has pledged that:

In any case in which litigants were concerned about my fairness and impartiality, or the appearance of impropriety, I would take those concerns seriously. I would follow 28 U.S.C. Section 455 and the Code of Conduct for United States Judges when making recusal decisions.

He would follow the law. He will abide by the same standards of conduct that govern every Federal judge.

Since the issue of natural law has been raised in discussing Mr. Holmes' nomination, I want to set the record straight.

Some have expressed concern that Mr. Holmes seems to be a believer in natural law and will allow those beliefs to influence his rulings on the bench. The facts show otherwise.

When asked if he believes that the Declaration of Independence establishes or references rights not listed or interpreted by the Supreme Court to be in the Constitution, Mr. Holmes wrote:

I do not believe the Declaration of Independence establishes judicially enforceable rights.

Instead, he wrote:

The Constitution as a whole is aimed at securing the rights described as unalienable by the Declaration of Independence.

Mr. Holmes noted that:

Working all together, the entire system of government should . . . result in a free country, a country without tyranny, which, in the terms that the founders used, is equivalent to saying a country in which natural rights generally are respected.

Mr. Holmes, however, cautions:

[T]here is no constitutional authority for the courts to use the Declaration of Independence to overrule the Constitution. The authority of the courts is granted by the Constitution, not the Declaration.

He also wrote:

No one branch of government can appeal to natural rights as a basis for exceeding or altering its authority under the Constitution.

Rather, he writes:

[w]hen citizens believe that natural rights are not safeguarded adequately by the present system of government, they may express that view in the electoral process, or they may seek to amend the Constitution pursuant to Article V.

Mr. Holmes has demonstrated, and his record demonstrates, that once he dons the robes of a judge, he will set aside those beliefs and follow the law as it is stated. Mr. Holmes understands key differences between an advocate and a judge, and that personal views play no role in the duty of a judge to abide by stare decisis and apply the precedent of the Supreme Court and Eighth Circuit. For those reasons, I believe that Mr. Holmes will make an outstanding Federal district judge.

I close by yielding my last few minutes to Senator PRYOR, a Member of the Senate who knows Mr. Holmes the best. I believe we ought to listen to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 minute.

Mr. PRYOR. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. There is 58 seconds remaining.

Mr. PRYOR. I will be brief.

Earlier today, I read from 23 different letters of people from Arkansas, lawyers who practice with him, who support him. Many of these statements are inflammatory. I admit that. He admits that. He has apologized. Many of these were done 15, 20, in one case 24 years ago.

I hope we will tone down the rhetoric. If Senators vote for Leon Holmes, they are not antiwoman. If Senators vote against him, certainly they are not anti-Catholic. Let us have a straight up-or-down vote.

I encourage all of my colleagues to vote for Leon Holmes. Over and over, people in Arkansas who know him, who repeatedly say they do not agree with him on many of these issues, think he will be a fair, impartial, and an excellent member of the bench.

I ask my colleagues for their consideration.

The PRESIDING OFFICER. All time has expired.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of J. Leon Holmes, of Arkansas, to be United States District Judge for the Eastern District of Arkansas?

The clerk will call the roll. The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Alaska (Ms. MURKOWSKI), is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 153 Ex.]

YEAS—51

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Ensign	Miller
Bennett	Enzi	Nelson (NE)
Bond	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (SC)	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chambliss	Hatch	Smith
Cochran	Inhofe	Specter
Coleman	Kyl	Stevens
Cornyn	Landrieu	Sununu
Craig	Lincoln	Talent
Crapo	Lott	Thomas
DeWine	Lugar	Voinovich

NAYS—46

Akaka	Dodd	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham (FL)	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carper	Hutchison	Sarbanes
Chafee	Inouye	Schumer
Clinton	Jeffords	Snowe
Collins	Johnson	Stabenow
Conrad	Kennedy	Warner
Corzine	Kohl	Wyden
Daschle	Lautenberg	
Dayton	Leahy	

NOT VOTING—3

Edwards	Kerry	Murkowski

The nomination was confirmed.

Mr. GRASSLEY. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CLASS ACTION FAIRNESS ACT OF 2004

The PRESIDING OFFICER. The clerk will report S. 2062.

The legislative clerk read as follows:

A bill (S. 2062) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise today to express my strong support for the Class Action Fairness Act of 2004, which is now renumbered S. 2062, to accommodate the bipartisan compromise we reached last November with Senators DODD, SCHUMER, and LANDRIEU. This improved bill embodies a carefully balanced legislative solution that responds to some of the most outrageous abuses of the class action litigation device in some of our State courts.

As anyone who has read the bill knows, it restores fairness to the class

action system. Among other things, it eliminates the opportunity that exists in the current system for unscrupulous lawyers to profit by victimizing injured parties with sham settlements. It takes away the opportunity for those lawyers to use the system to extort legitimate businesses for their personal financial gain.

Throughout the years, Congress has received powerful evidence showing an extraordinary concentration of large interstate class action lawsuits in a handful of outlier State courts—certain county courts, to be precise. The evidence further shows these outlier courts operate in a manner that deprives the rights of truly injured individual plaintiffs, as well as defendants. In too many cases, the families have fallen prey to the manipulation, and in some cases outright evasions, by certain plaintiffs' lawyers of the settled rules supposed to ensure basic fairness during the major interstate class action disputes. Too often, judges approve settlements that primarily benefit the class action attorneys rather than the injured class members.

Indeed, it has become all too common for certain State courts to approve proposed settlements where class members receive little or nothing of value, such as meaningless coupons, while their attorneys rake in millions of dollars in fees.

It is one of the new games in litigation practice in America. It is a disgrace caused by a relatively small few in the legal profession but enough to make it a matter of great concern. This bill would clarify and solve some of these problems.

To make matters worse, multiple class action lawsuits asserting the same claims on behalf of the same plaintiffs are routinely filed in different State courts, thus creating judicial inefficiencies and encouraging collusive settlement behavior. Unfortunately, the injuries caused by these abuses are not confined to the parties who are named in the class action complaint. Rather, they extend to everyday consumers who unwittingly get dragged into these lawsuits as unnamed class members simply because they purchased a cell phone, bought a box of cereal, drove a car fitted with a certain brand of tires, or rented a video. What we are talking about is a system that impacts the vast majority of people who live in this country, not only lawyers and some businesses, as some have wrongly suggested.

We are talking about people such as Irene Taylor of Tyler, TX, who was cheated out of approximately $20,000 in a telemarketing scam that defrauded senior citizens out of more than $200 million.

This is a picture of Irene Taylor. In a class action brought in Madison County, IL, the attorneys purportedly representing Ms. Taylor negotiated a proposed settlement which excluded her from any recovery whatsoever.

We are talking about people such as Martha Preston of Baraboo, WI, as evidenced by this picture of her. Martha was involved in the infamous BancBoston case, brought in Alabama State court, which involved the bank's alleged failure to post interest to mortgage escrow accounts in a prompt manner. Ms. Preston received a settlement of about $4. Approximately $95 was deducted from her account to help pay the class action fees of $8.5 million.

This is the Bank of Boston chart, a perfect illustration of class action abuses going on in this country as we speak. A Bank of Boston settlement over disputed accounting practices produced $8.5 million in attorneys' fees—costing the class members as much as $95, which was deducted from their accounts. The plaintiffs' attorneys in this case later sued class members for an additional $25 million. I do not care who you are, you have to say that is outrageous.

Ms. Preston testified before the Judiciary Committee 5 years ago asking us to halt these abusive class action lawsuits, but it appears that, at least so far, her plea has fallen on very deaf ears.

Class action abuses are far-reaching, so far-reaching that they affect nonconsumers as well. Take, for instance, Hilda Bankston, a hard-working American, shown in this picture, who came to this country seeking to fulfill the American dream. Hilda found that instead of reaping the rewards that normally come with hard work, she was unmercifully dragged into hundreds of lawsuits filed by personal injury lawyers in the State of Mississippi. Why? She owned the only drugstore in Jefferson County—a county known for hosting one of the most notorious magnet courts in the country.

Her small business became a prime target for forum-shopping personal injury lawyers in pharmaceutical cases, not because her business committed acts of negligence, and certainly not because her business had deep pockets to pay a large jury award or a lucrative settlement. To the contrary, they were sued, in this particular case, for the sole purpose of evading Federal court jurisdiction so the class action lawsuit could remain in State court.

Why would personal injury lawyers go to such trouble to keep a class action in State court? Because unlike our Federal courts which have judges who are insulated from political influence through lifetime appointments, many State court judges are elected officials who answer through the political process itself.

Even though Ms. Bankston no longer owns the drugstore, she continues to be named a defendant in these lawsuits today and is buried under a mountain of discovery requests because of the litigation. On a more personal level, Ms. Bankston told us about how this ordeal has affected her both personally and professionally. She testified that:

[N]o small business should have to endure the nightmares I have experienced. . . . I have spent many sleepless nights wondering if my business would survive the tidal wave of lawsuits cresting over it.

Critics have argued the Senate should vote this bill down because it amounts to nothing more than special interest legislation. These critics are dead wrong and stand in desperate need of a reality check. To be perfectly clear, it is because of the wrongs committed against everyday American consumers such as Irene Taylor and Martha Preston that the time has come for the Senate to pass class action reform. It is because of the victimization of innocent people like Hilda Bankston that the Senate needs to act now, and it is because of the public's collapsing confidence in our civil justice system that we need to pass this bill without further delay. Arguments being raised to the contrary are red herrings that distort the real truth of the matter. The class action problem is real and significantly affects the general public.

The Class Action Fairness Act represents a modest and balanced solution to the class action problems. There are two core features to the legislation.

First, the bill implements consumer protections against abusive settlements by, No. 1, valuing attorneys' fees in coupon settlements to those coupons that are actually redeemed by class members; No. 2, providing a standard for judicial approval of settlements that would result in a net monetary loss to plaintiffs; No. 3, prohibiting settlements that favor class members based upon geographic proximity to the courthouse; and, No. 4, requiring notice of class action settlements be sent to appropriate State and Federal authorities to provide them with sufficient information to determine whether the settlement is in the best interest of the citizens they represent.

Second, the bill corrects a flaw in the current Federal diversity jurisdiction statute so the class actions with a truly interstate impact are adjudicated where they originally should be adjudicated, and that is in our Federal courts. Specifically, S. 2062 amends the diversity of citizenship jurisdiction statute to allow larger interstate class actions to be adjudicated in Federal court by granting original jurisdiction in class actions where there is ''minimal diversity'' and the aggregate amount in controversy among all class members exceeds $5 million.

The bill also balances the States' interest in adjudicating local disputes by providing that class actions filed in the home State of the primary defendants remain in State court subject to a triple-tiered formula that looks at the composition of the plaintiffs' class membership. This formula become known as the Feinstein compromise, which we were able to reach with Senator FEINSTEIN during the Judiciary Committee markup on the bill.

Moreover, after negotiations with Senators DODD, SCHUMER, and LANDRIEU last November, we were able to reach consensus on further refinements that allow truly local disputes

involving principal injuries within the forum State to be adjudicated in the State courts.

Now that I have summarized what the bill does, let me explain what it does not do. First, this bill does not eliminate all State court class action litigation. Class action suits brought in State courts have proven in many contexts to be an effective and desirable tool for protecting consumer rights, nor do the proposed reforms in any way diminish the rights or practical ability of victims to band together to pursue their claims against large corporations. In fact, we have included several consumer-protection provisions in our legislation that I believe will substantially improve plaintiffs' chances of achieving a fair result in any proposed settlement.

My summary of the bill should not come as a surprise to anyone here because these reform efforts have an extensive history in this body. Most importantly, this bill maintains strong support from several Members on the other side of the aisle. In this regard, I extend a special thanks to Senators CARPER, KOHL, and MILLER for their tireless efforts in pushing for class action reform. Their commitment has helped us to get where we are today with this bill, and I look forward to their efforts in the coming days to keep the focus on passing this much-needed compromise legislation without becoming mired in extraneous amendments.

I also thank my colleagues—Senators SCHUMER, DODD, and LANDRIEU—for working with us in good faith to build a stronger bipartisan consensus for this bill. As you may know, we fell one vote shy of invoking cloture, on getting 60 votes, last year. These three Members, who originally voted against the bill presented us with a detailed list of issues they wanted resolved before they could support class action reform legislation. After extensive discussions last November, we responded in good faith to each and every concern they raised by making the appropriate changes that are now embodied in S. 2062.

I look forward to continuing the good faith that was displayed last November as we proceed on this bill.

Opponents of this legislation would, no doubt, like to derail it by bogging it down in the amendment process. I look to the leadership of my Democratic colleagues who have worked with me on getting this legislation to where it is, and to others who are serious about ending the victimization of American consumers, to do all they can to prevent this from happening.

Above all, I look to the leadership of Senator GRASSLEY, who was the original sponsor of this bill and who deserves a lot of credit for having fought this bill through in such a magnificent way through all of these years. He is a gutsy guy. He stands for what he believes. He deserves a lot of the credit for this bill.

In the coming days, I fully expect that some Members will offer numerous amendments to the bill, many of which will have nothing to do with the subject of class action. Look, we know this bill is going to be used as an attempt to bring up all kinds of political amendments for the purpose of scoring political points. I wish my colleagues wouldn't do that on a bill this important. Naturally, some of them want to adopt some of these amendments so they can kill this bill. Others just want a shot at making Senators vote on political issues that they think will be embarrassing to them. I would hope we would concentrate on the bill because it is important, and if there are legitimate amendments, certainly we will give every consideration to them.

While I understand the desire to follow regular order, I would like to note that this bill rests on a delicate bipartisan compromise that at least on paper commands a supermajority of votes—beyond 60—to overcome a Democratic filibuster. But with each controversial measure added to this bill, we all know it is less likely to become law. That is after 5 years of very hard work and an agreement by 62 Members of this body who have signed on to this bill up front to see that it passes. As such, I urge my colleagues, especially those who have supported class action reform, to limit and oppose amendments so we can move an important bipartisan measure through the Senate.

Again, while I expect opponents of this bill to do everything in their power to gut and weaken the bill, I trust that my Democratic colleagues who support class action reform will remain faithful to the bipartisan deal by vigorously opposing these amendments that will likely be offered in the coming days. That is what we do when we agree to a settlement. We agree to work to stop all poison pill amendments, and we agree to work to stop amendments that those who made the agreement to begin with do not agree with.

Class action reform is long overdue, and it is now time for us to act. We have considered legislation for many years now, and the pattern of abuse has become clear. What once began as an occasional outrageous class action settlement has now become a routine occurrence. There are jurisdictions in this country, State jurisdictions and local jurisdictions, that border on corruption, that literally don't care what the facts are, don't care what the law is. They are just going to give the plaintiffs' attorneys whatever they want. The plaintiffs' attorneys have caught on to it, so they forum shop to these outrageous jurisdictions so they can get judgments and verdicts far beyond what they could ever get in a jurisdiction that treated the law with respect.

The legislation we are considering would fix all of these problems. I would consider it a shame if we allowed partisan politics to kill much-needed reform of the abuses in the current system, abuses that are actually hurting those in the system we are supposed to help.

This is an important bill. We have worked long and hard to get to this point. I hope with all my heart that our colleagues on both sides will live up to the commitments they have made and that we can pass this bill and solve some of these terrible problems.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the current version of class action legislation has undergone a number of changes since it was reported by the Judiciary Committee. Some of these changes have been improvements. I want to note that. Some have not. I know that Senators DODD, LANDRIEU, SCHUMER, KOHL, and CARPER negotiated some procedural improvements to S. 1751. I believe these do help. I appreciate their efforts to rein in some of the worst aspects of the bill.

For example, these improvements restricted the use of worthless coupon settlements. I agree with that. To hear some of the commentators about this bill, you would think that was not in there, but I want everybody to know it is. They also eliminated some provisions that were harmful to civil rights and consumer plaintiffs who endure hardships as a result of initiating and pursuing litigation.

But in other aspects, the compromise failed to achieve their intended goals. For example, one provision seeks to reduce the delay plaintiffs can experience when a case is removed to Federal court. It sets a time limit for appeals and remand orders. But there is not a concomitant measure that would set a timeline for the district court to rule on the actual remand motion.

This may seem like a bit of arcane lawyer's jargon, but it is a lot more than that. It means that you could be a plaintiff, be in State court legitimately. You suddenly get plucked out of State court. But then they could put you on the Federal docket. Somebody could say, OK, we are just going to leave it there year after year after year after year, and there is nothing you could do about it. There is no recourse. I understand that Senator FEINGOLD will offer an amendment to set a reasonable time limit for the district court to rule on these remand orders. It seems like common sense. Rule them up or rule them down, but have a time to do it. I hope all Senators will support him.

In addition, I am disturbed the bill may deny justice to consumers and others in class actions involving multiple State laws. The recent trend in the Federal courts is to not certify class actions if multiple State laws are involved; thus, the class action bill could force nationwide class actions into Federal court and then just be dismissed for involving too many State laws. It is kind of a way of making sure that you never reach the merits of the

case, whether in Federal courts or State courts, because you could get rid of it on a technicality. I understand Senator BINGAMAN has an amendment to prevent this from happening. I would support that.

I am also concerned with provisions contained in the most recent iteration of this class action bill before the Senate. I try to keep up with it, but it keeps undergoing so many changes. But this latest part would deprive Vermonters of the right to band together to protect themselves against violations of State civil rights, consumer, health, and environmental protection laws in their own State courts. What it is saying is, we here in the Senate can make a far better judgment than the people of Vermont going into State courts on State matters or the people of Tennessee going into Tennessee court on a Tennessee matter.

I hear so many speeches about how we have to protect our States and keep the heavy hand of government from them, but basically we are saying that if a group of people, say, in Iowa, want to band together to protect themselves against a violation of State civil rights or consumer or health or environmental protection laws, and do it just in their own State courts, they can't do it because the U.S. Senate has figured we know a lot better than the people of Iowa or Tennessee or Vermont.

This bill continues to deprive citizens of the right to sue on State law claims in their own State courts if the principal defendant is a citizen of another State, even if that defendant has a substantial presence in the plaintiff's home State and even if the harm done was in the plaintiff's home State. In other words, you might have somebody from State A, but they have invested a huge amount in the second State. They are involved in things in that second State. They do something in that second State. They may deprive citizens of their rights in that second State, and they can't sue in that State. I understand that Senator BREAUX intends to offer an amendment to keep these in-State class actions in State courts. They should be.

I am also troubled by the scope of the legislation in that it federalizes a lot more than class actions. This goes way beyond class actions. Despite the fact that such a provision was struck from the bill during markup in the Judiciary Committee, mass torts now again are included in the bill. This expansion simply amplifies the harm done to citizens' rights and to the possibility of vindicating those rights in their own State courts.

Some special interest groups are distorting the state of class action litigation by relying on a few anecdotes in an ends-oriented attempt to impede plaintiffs bringing class action cases. It will make a lot of money in radio and TV stations. The ads are designed to actually be seen or heard only by 535 people—Members of Congress.

I think we should take steps to correct actual problems in class action litigation where they occur. But simply shoving most suits into Federal court will not correct the real problems faced by plaintiffs and defendants. We have done something like this by taking a whole lot of criminal matters that should easily be handled in State courts and put them into the Federal courts, and the Federal courts are so overloaded they don't get to either the criminal or civil cases.

Our State-based tort system has grown over 200 years. It remains one of the greatest and most powerful vehicles for justice anywhere in the world. One reason for that is the availability of class action litigation to let ordinary people band together to take on powerful corporations or, in some cases, even their own Government. Nobody has the money by themselves to take on the Government. Nobody has the money by themselves to take on some multibillion-dollar corporation. Banding together, sometimes they can.

Defrauded investors, deceived consumers, victims of defective products, environmental torts, and thousands of other people are currently able to access class action lawsuits in their State court system to seek and receive justice. They can band together to afford a competent lawyer. Whether they are getting together to force manufacturers to recall products or to clean up after devastating environmental harm or to vindicate basic civil rights, they are using class action. We should not try to make it more difficult or costly for them to right those wrongs, although many people who cause the wrongs would love us to put roadblocks in the way.

So the so-called Class Action Fairness Act falls short in the expectation set by its title. It is going to leave many injured parties who have valid claims with no way to seek relief. Class action suits have enabled our citizens to receive justice and expose wrongdoing by corporations and their own Government. It has given the average American a local venue and a chance.

This legislation may be the last authorization bill the Senate considers this year. We have only passed one appropriations bill for the upcoming fiscal year. The Senate has so few days left. Can you imagine that? There are 14 appropriations bills and we have only passed 1. We have not passed a budget yet. I think that is supposed to be done in March or April. We are not going to do our appropriations bills. Everybody knows that. Someone will write a huge omnibus bill with the White House and try to cram it through. So I think because this is the last authorization bill, you are going to have Senators on both sides of the aisle with both germane and nongermane amendments.

So we will vote and see where we go. There were improvements made. We showed we could make improvements. But as soon as it started really being improved, the doors got slammed shut.

I ask unanimous consent that a letter on behalf of the attorneys general of California, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Montana, New Mexico, New York, Oklahoma, Vermont, and West Virginia in opposition to S. 2062 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY GENERAL,
Albany, NY, June 22, 2004.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, Dirksen Senate Office Building, Washington, DC.
Hon. TOM DASCHLE,
Minority Leader, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR MR. MAJORITY LEADER AND MR. MINORITY LEADER: On behalf of the Attorneys General of California, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Montana, New Mexico, New York, Oklahoma, Vermont, and West Virginia, we are writing in opposition to S. 2062, the so-called ''Class Action Fairness Act,'' which reportedly will be scheduled for a vote in the next few weeks. Although S. 2062 has been improved in some ways over similar legislation considered last year (S. 274), it still unduly limits the right of individuals to seek redress for corporate wrongdoing in their state courts. We therefore strongly recommend that this legislation not be enacted in its present form.

As you know, under S. 2062, almost all class actions brought by private individuals in state court based on state law claims would be forced into federal court, and for the reasons set forth below many of these cases may not be able to continue as class actions. All Attorneys General aggressively prosecute violations of our states' laws through public enforcement actions filed in state court. Particularly in these times of state fiscal constraints, class actions provide an important ''private attorney general'' supplement to our efforts to obtain redress for violations of state consumer protection, civil rights, labor, public health and environmental laws.

We recognize that some class action lawsuits in state and federal courts have resulted in substantial attorneys' fees but minimal benefits to the class members, and we support targeted efforts to prevent such abuses and preserve the integrity of the class action mechanism. However, S. 2062 fundamentally alters the basic principles of federalism, and if enacted would result in far greater harm than good. It therefore is not surprising that organizations such as AARP, AFL–CIO, Consumer Federation of America, Consumers Union, Leadership Conference on Civil Rights, NAACP and Public Citizen all oppose this legislation in its present form.

1. Class Actions Should Not Be ''Federalized''

S. 2062 would vastly expand federal diversity jurisdiction, and thereby would result in most class actions being filed in or removed to federal court. This transfer of jurisdiction in cases raising questions of state law will inappropriately usurp the primary role of state courts in developing their own state tort and contract laws, and will impair their ability to establish consistent interpretations of those laws. There is no compelling need for such a sweeping change in our long-established system for adjudicating state law issues. Indeed, by transferring most state court class actions to an already overburdened federal court system, this bill will delay (if not deny) justice to substantial numbers of injured citizens. The federal judiciary faces a serious challenge in managing

its current caseload, and thus it is no surprise that the Judicial Conference of the United States has opposed the ''federalization'' of class action litigation.

S. 2062 is fundamentally flawed because under this legislation, most class actions brought against a defendant who is not a ''citizen'' of the state will be removed to federal court, no matter how substantial a presence the defendant has in the state or how much harm the defendant has caused in the state. While the amendments made last fall give the federal judge discretion to decline jurisdiction in some cases if more than one-third of the plaintiffs are from the same state, and place additional limitations on the exercise of federal court jurisdiction if more than two-thirds of the plaintiffs are from a single state, even in those circumstances there are additional hurdles that frequently will prevent the case from being heard in state court.

2. Many Multi-State Class Actions Cannot Be Brought in Federal Court

Another significant problem with S. 2062 is that many federal courts have refused to certify multi-state class actions because the court would be required to apply the law of different jurisdictions to different plaintiffs—even if the laws of those jurisdictions are very similar. Thus, cases commenced as state class actions and them removed to federal court may not be able to be continued as class actions in federal court.

In theory, injured plaintiffs in each state could bring a separate class action lawsuit in federal court, but that defeats one of the main purposes of class actions, which is to conserve judicial resources. Moreover, while the population of some states may be large enough to warrant a separate class action involving only residents of those states, it is very unlikely that similar lawsuits will be brought on behalf of the residents of many smaller states. We understand that Senator Jeff Bingaman will be proposing an amendment to address this problem, and that amendment should be adopted.

3. Civil Rights and Labor Cases Should be Exempted

Proponents of S. 2062 point to allegedly ''collusive'' consumer class action settlements in which plaintiffs' attorneys received substantial fee awards, while the class members merely received ''coupons'' towards the purchase of other goods sold by defendants. If so, then this ''reform'' should apply only to consumer class actions. Class action treatment provides a particularly important mechanism for adjudicating the claims of low-wage workers and victims of discrimination, and there is no apparent need to place limitations on these types of actions. Senator Kennedy reportedly will offer an amendment on this issue, which also should be adopted.

4. The Notification Provisions Are Misguided

S. 2062 requires that federal and state regulators be notified of proposed class action settlements, and be provided with copies of the complaint, class notice, proposed settlement and other materials. Apparently this provision is intended to protect against ''collusive'' settlements between defendants and plaintiffs' counsel, but those materials would be unlikely to reveal evidence of collusion, and thus would provide little or no basis for objecting to the settlement. In addition, class members could be misled into believing that their interests are being protected by their government representatives, simply because the notice was sent to the Attorney General of the United States and other federal and state regulators.

Equal access to the American system of justice is a foundation of our democracy. S. 2062 would effect a sweeping reordering of our nation's system of justice that will disenfranchise individual citizens from obtaining redress for harm, and thereby impede efforts against egregious corporate wrongdoing. Although the Attorneys General of California, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Montana, New Mexico, New York, Oklahoma, Vermont, and West Virginia oppose S. 2062 in its present form, we fully support the goal of preventing abusive class action settlements, and would be willing to provide assistance in your effort to implement necessary reforms while maintaining our federal system of justice and safeguarding the interests of the public.

Sincerely,

ELIOT SPITZER,
Attorney General of the State of New York.
W.A. DREW EDMONDSON,
Attorney General of the State of Oklahoma.

Mr. LEAHY. Mr. President, I ask unanimous consent that an editorial in today's New York Times in opposition be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 6, 2004]

CLASS-ACTION UNFAIRNESS

A mischievous bill masquerading as an effort to reform the system of class-action lawsuits is headed for the Senate floor this week. The bill would tilt the civil justice system in favor of corporations and against consumers, the environment and public health. Democrats blocked a nearly identical measure by just one vote last October, Since then, three Democratic senators—Mary Landrieu of Louisiana, Christopher Dodd of Connecticut and Charles Schumer of New York—have agreed to switch sides to support the bill in exchange for certain improvements in it.

Unfortunately, those improvements would not cure the bill's core defect: namely, that it would move almost all major class-action lawsuits to overburdened federal courts from state courts. Such a shift is likely to delay or deny justice in numerous instances, and, ultimately, to dilute the impact of the strong consumer protection laws in many states.

A letter to Congress representing the views of 13 state attorneys general, including Eliot Spitzer of New York, makes this point emphatically. It goes on to note that the bill's sweeping provisions moving state class actions to federal courts would not only threaten individual plaintiffs but would also trespass on traditional principles of federalism.

Should the Senate measure be passed, it would have to be reconciled with an even more damaging House bill, which would apply retroactively to pending class-action cases. The best result would be for the Senate to defeat the bill and go back to the drawing board. At the very least, however, it should limit the damage by approving corrective amendments being offered by Senator Jeff Bingaman and others to lessen the disadvantage to plaintiffs.

No one disputes that certain provisions of the bill address real class-action abuses, foremost among them the collusive settlements that benefit plaintiffs' lawyers while shortchanging their clients. But taken as a whole, the bill before the Senate isn't genuine tort reform. It is mostly a gift to wealthy special interests that is mislabeled as reform.

Mr. LEAHY. Mr. President, I see other Senators seeking the floor. I will probably have an opportunity to say a few words tomorrow. I find that the summertime laryngitis is coming back, and I see my dear friend from Iowa on the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am pleased that Majority Leader FRIST has called up the Class Action Fairness Act. I have been working on this bill since the 105th Congress, so I think it is about time the Senate completes action on this bill.

My colleagues will recall that in October of last year Senator FRIST brought this bill to the floor, but we were not able to proceed to the bill because of filibuster, and we lost the vote on cloture on the motion to proceed by just a one-vote margin. A supermajority of 60 votes was needed. We had 59 votes which, obviously, means that last fall we had enough votes to pass the legislation but could not get around the filibuster.

When you are up against a filibuster, you have to work out issues because nothing in the Senate gets done that is not done in a fairly broad bipartisan way. Since then, I have worked in good faith with Senator HATCH, chairman of the Judiciary Committee, and our lead Democratic cosponsors, Senator KOHL and Senator CARPER, to modify the bill to address a number of concerns raised by their colleagues on the Democratic side, Senators DODD, LANDRIEU, and SCHUMER.

These Senators are now satisfied with the changes we made to this bill. We reintroduced the legislation this year as S. 2062. So the bill before us goes even further in terms of compromising on the issues than were brought before the Senate last October—enough action, I hope, that we can get to finality within a few days.

As many colleagues may already know, this bill has gone through many changes and mostly changes to accommodate the minority in the Senate, a few Democratic Senators. I have worked in good faith with my colleagues on the other side of the aisle to bring people together and to address valid concerns to increase support for this bill, especially to get over the hurdle of the supermajority of 60 to get to stop debate and get to finality.

To tell you the truth, Mr. President, I really didn't think we needed to make any changes in this class action bill that we originally introduced this Congress—in other words, last year. I thought then, and I think now, that the original introduction was a pretty good bill. But, of course, being a pretty good bill in my judgment doesn't mean it has enough votes to get that supermajority and get the compromise that is necessary to get to finality. So in order to move the class action bill forward, I did my best to listen to the issues raised and to make modifications to the bill where there was room for compromise.

Yet S. 2062 still retains the goals I wanted to achieve and other cosponsors wanted to achieve; that is, to fix some of the more egregious problems that we are seeing in the class action system, and to provide a more legitimate forum for nationwide class action lawsuits.

The deal we have struck is a very carefully crafted compromise that should not need any further modifications. So I am asking my colleagues to withhold offering amendments to avoid disrupting the balance we have achieved. I also hope we will not see a lot of nongermane amendments offered to this bill—meaning nothing to do with this legislation. Under the rules of the Senate, they can be offered but they are very distracting. We ought to keep our focus upon the class action system reform. Instead, we should focus on the germane amendments, get this bill done, and move on. We should not get all caught up in message amendments that will do nothing but play politics and delay all the hard work that we put into this bipartisan compromise bill. So I hope we can pass this bipartisan class action bill without changes and without any further delay.

The reality is that the class action system is broken and we should do something about it. The current class action system is rife with problems which have undermined the rights of both plaintiffs and defendants. Class members are often in the dark as to what their rights are, with the class lawyers, driving the lawsuits and the settlements, with their interests as much in mind as those of members of the class.

Class members receive court and settlement notices in hard-to-understand legalese. The notices are written in small print and in confusing legal jargon so class members often do not understand their rights or, more importantly, the consequences of their actions with respect to the class action lawsuit of which they are a part.

Furthermore, many class action settlements only benefit lawyers, with little or nothing going to the members who have been harmed. We are all familiar with class action settlements where the members get a coupon of little or no value, and the lawyers get all the money available in the settlement agreement. We know that is not protecting the consumers of America.

In addition, the current class action rules are such that the majority of the large nationwide class action lawsuits can only proceed in State court when they are clearly the kinds of cases that should be decided in our Federal courts because they have nationwide implications.

At least these class action lawsuits should have had an opportunity to be heard in Federal court because usually they are the cases that involve the most amount of money, citizens from all across the country, and issues of nationwide concern.

Why should a State court or a county court be deciding these kinds of class action cases that are going to impact people all across our country? Those cases ought to be decided in a Federal jurisdiction. This present system has never made sense to me.

To further compound the problem, the present rules are easily gamed by unscrupulous lawyers who steer class action cases to certain State-preferred courts where judges are quick to certify a class and approve settlements with little regard to class members' interests and the parties' due process rights.

We have heard of class action lawyers manipulating case pleadings to avoid removal of a class action lawsuit to Federal court, claiming that their clients suffered under $75,000 in damages, in order to avoid the Federal jurisdiction amount threshold in existing law.

We have also heard of class action lawyers crafting lawsuits in such a way to defeat the complete diversity requirements by ensuring that at least one named class member is from the same State as one of the defendants, even if every other class member is from a different State.

These are only a couple of the gamesmanship tactics that we hear lawyers like to utilize to bring down an entire class action legal system. The fact is, many of these class action cases are just frivolous lawsuits that are cooked up by lawyers to make a quick buck, with little benefit to class members whom the lawyers are supposed to be representing.

This is a real drag on the economy. Many a good business is being hurt by frivolous litigation costs. Unfortunately, the current class action rules are contributing to the cost of businesses across America and particularly hitting hard small businesses that get caught up in the class action web.

Too many frivolous lawsuits are being filed and too many good companies and consumers are having to pay for lawyer greed. We need to restore some commonsense reform to our legal system, and this legislation does it. It should have been done years ago.

So my colleagues understand, then, why Senator KOHL of Wisconsin and I originally joined forces several Congresses ago—too long ago—to do something about these runaway abuses, and the only thing standing between us and success several years ago was the powerful influence of personal injury lawyers within our political system.

The Class Action Fairness Act will address some of the more egregious problems within our class action system, and it will, at the same time, preserve class action lawsuits as an important tool to bring representation to the unrepresented.

I remind my colleagues of all the time that was spent working on finding a fair solution to the class action problem. For the past four Congresses, Senator KOHL, Senator HATCH, and others have joined me in studying the abuses in the class action system and working to solve these problems. Over the years, both the House and Senate Judiciary Committees have convened numerous hearings on these class action abuses and, more importantly, highlighting the need for reform. The House passed similar versions of class action bills in several Congresses with very strong bipartisan support.

In the Senate, in the 105th Congress, I held a hearing on class action abuse in the Judiciary Committee's Administrative Oversight Subcommittee. In the 106th Congress, my subcommittee held another hearing on class action, and the Judiciary Committee, at that time, marked up and reported out our class action legislation. The Judiciary Committee held a hearing on class action abuse again in the 107th Congress and again in this 108th Congress. The Judiciary Committee marked up the bill which is before the Senate.

Chairman HATCH, Senator KOHL, and I worked closely with Senator FEINSTEIN to make sure that more in-State class actions stayed in State court. That was a compromise to garner a little more bipartisan support at that time.

We also worked closely with Senator SPECTER, albeit a Republican but a person who had some questions about this legislation, to make sure that his concerns relative to class actions were addressed.

The bill was approved by the Judiciary Committee with solid bipartisan support. Late last year, we worked with Senators SCHUMER, DODD, and LANDRIEU to address concerns they raised and to get them on board. Those Senators joined us in the introduction of the numbered bill before us, S. 2062, in February of this year in a bipartisan show of support for class action reform.

I wanted to elaborate on the history of this bill so my colleagues were aware of the tremendous amount of time, over almost a decade, that Congress has spent studying the problem with our class action system and all the work and compromises that we put into this bipartisan bill to hopefully now get it passed.

I will highlight some of the changes that we made to the bill to increase bipartisan support since Senator KOHL and I introduced the first Class Action Fairness Act several years ago.

The bill, as was originally introduced, did several things. It required that notice of proposed settlements in all class actions, as well as all class notices, be in clear, easily understood English and include all material settlements and the terms of those settlements, including amount and source of attorney's fees. Mr. President, you should not have to be a lawyer to understand what you are suing about and what your cause is and what is going to happen to attorney's fees and other issues in the settlement. Presently, it is pretty complicated to understand that situation.

Because plaintiffs give up their right to sue by joining a class action, they

have a right to understand the ramifications of their actions in joining a class.

Then our bill required that State attorneys general, or other responsible State government officials, be notified of any proposed class settlement that would affect the residents of their States.

We included this provision to help protect class members because such notices would provide State officials with an opportunity to object if the settlement terms were unfair to the citizens of their particular State. Somebody at the State level ought to be reviewing that for the populations of their States.

Our bill also requires that courts closely scrutinize class action settlements where the plaintiffs only receive a coupon or some other noncash award while, as I have said before, the lawyers get the bulk of the money.

Our bill required the Judiciary Committee to report back to Congress on the best practices in class action cases and how to best ensure fairness of class action settlements.

Finally, the bill allowed more class action lawsuits to be removed from State court to Federal court. The bill eliminated the complete diversity rule for class action cases but left in State court those class actions with fewer than 100 plaintiffs, class actions that involved less than $5 million, and class actions in which the State government entity, like the attorney general—well, no that is not right—where a State government entity is a primary defendant. Our bill still does many of these things, but we have made a number of modifications to get broader bipartisan support.

In the Judiciary Committee last year, we incorporated the Feinstein amendment, which would leave in State court class action cases brought against a company in its home State where two-thirds or more of the class members are also residents of that State. We also incorporated changes to address issues raised by Senator SPECTER relative to how mass actions should be treated under the bill.

In our negotiations in late 2003 with Senators SCHUMER, DODD, and LANDRIEU, we made numerous changes. I am only going to mention a few of those important compromises reached. Examples: We made changes to the coupon settlement provisions in the bill, providing that attorneys fees must be based either on the value of the coupons actually redeemed by class members or the hours actually billed in prosecuting the case.

We deleted the bounties provision because of concern that it might harm civil rights plaintiffs.

We deleted provisions in the bill that dealt with specific notice requirements because the Judicial Conference has already approved similar notice requirements to the Federal Rules of Civil Procedure.

To address questions about the merry-go-round issue, we eliminated a provision dealing with the dismissal of cases that failed to meet rule 23 requirements so that existing law continues to apply.

We deleted a provision allowing plaintiff class members to remove class action because of gaming concerns.

We placed reasonable time limitations on appellate review of remand orders in the bill.

We clarified that citizenship of proposed class members is to be determined on the date plaintiffs file the original complaint or when plaintiffs amend that complaint.

We made modifications to the Feinstein compromise that I have already referred to and to the class actions language referred to.

We clarified that nothing in the bill restricts the authority of the Judicial Conference to promulgate rules with respect to class actions.

Finally, we crafted a new local class action exception which would allow class actions to remain in State court if, No. 1, more than two-thirds of the class members are citizens of the forum State; No. 2, there is at least one in-State defendant from whom significant relief is sought by members of the class and whose conduct forms a significant basis of the plaintiffs' claims; No. 3, principal injuries resulting from the alleged conduct or related conduct of each defendant were incurred in the State where the action was originally filed; and lastly, no other class action asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons has been filed during the preceding 3 years. We did this to ensure that truly local class action cases, such as a plant explosion or some other localized event, would be able to stay in the State court where the harm took place.

So we have made significant concessions to get our Democratic colleagues on board the Class Action Fairness Act. They have been telling us they are ready to support the bill and to get it passed. Both sides have been asking the leader to bring up this bill. Now that we have an agreement to proceed to the bill, hopefully no partisan politics will be played and we will get down to business and finally get this job done. It is time to make real progress on the class action bill and get it passed.

Again, I want to remind my colleagues that we crafted a carefully balanced bill that consists of all of these compromises and more that I have mentioned. I believe we have done a pretty good job of addressing legitimate concerns with the bill, and I am hopeful we will not see lots of amendments to disrupt this compromise.

I urge my colleagues to refrain from offering nonrelevant amendments, amendments that have nothing to do with this bill, because this is a bill that should not be bogged down with everyone's pet project, for which the Senate is so famous. All of our hard work of forging a bipartisan compromise bill should not go down the drain.

The bottom line is class action reform is badly needed. Both plaintiffs and defendants alike are calling for change. The Class Action Fairness Act will help curb many problems that have plagued the class action system.

The bill will increase class member protections and ensure the approval of fair settlements. It will allow nationwide class actions to be heard in the proper forum—the Federal courts—but keep primarily State class actions in State court. It will preserve the process but put a stop to the more egregious abuses. It will also help to put a stop to the frivolous lawsuits that are a drag on our economy and especially harmful to small business.

Now that we have worked out a delicate compromise, we should be able to get this bipartisan bill done without any changes.

A lot of my colleagues listening will say: Well, the gall of the Senator from Iowa to say that we have such a perfect bill before the Senate that we should not have any amendments. Well, over the course of several years, this has been a bipartisan bill in sponsorship. We developed more broad bipartisan consensus last year to get this bill out of committee. We just about had enough consensus to move the bill, one vote short of a supermajority, last October, of 60 votes, to move this bill.

Then there were further compromises made to get over that hurdle. You can quantify in this body, what it takes, as a measure of bipartisanship. It is whether you get that 60-vote supermajority to stop debate and to get to finality. That is where the power of the minority comes into play in this body. They can say they need further compromise to move this bill to finality. We did that between last October and now.

Some people do not want class action reform and they have a right to vote against it. But it seems when the Senate process has worked to bring about the necessary votes, and those necessary votes are gotten by the proper bipartisan compromises being worked out, then we ought to be able to let the Senate work its will. The rights of the minority have been protected.

Have the rights of every last Senator been protected? No. But if we had to wait for that to happen, no bill would pass. But if it did pass, it would pass by a 100-to-0 margin.

We are there. Hopefully this bill will pass the way it has been worked out and be done in a short period of a few days. We do not have a lot of time to spend on it. Of course, that works to the advantage of those who do not want anything because they represent the interests, they would say, of the consumers, and I don't doubt that is what they are concerned about. But they are also, intended or not, representing the interests of the selfish personal injury lawyers who want to play games with picking this county in this State, or that county in that State—some Podunk county where they can win their case.

It would be OK if that case were only pertinent to the people of that State, but you find this forum shopping with national implications. Something of national implication should not be decided in one Podunk county in one State but should be decided by our Federal courts.

I yield the floor.

Mr. CARPER. Will the Senator yield?

Mr. GRASSLEY. Yes. I yielded the floor, but if you want me to hold the floor——

Mr. CARPER. I would appreciate it. If the Senator will yield, I would like to make a comment.

Mr. GRASSLEY. Yes.

Mr. CARPER. I want to thank the chairman, as the prime sponsor of this bill, for his willingness to entertain changes and ideas from our side of the aisle, from Democrats who had what we thought were ideas to improve this legislation. I think as the bill has gone through its introduction, its markup and debate in the Judiciary Committee, been reported out of the Judiciary Committee—the bill was sort of rereported out of the Judiciary Committee with some further changes, there was the adoption of the changes and incorporation of the changes that were negotiated with a number of us, including Senators SCHUMER, DODD, LANDRIEU, KOHL, and myself—I think one of the reasons why we are here tonight with a bill we can go forward with, that is going to get pretty good bipartisan support, has been your willingness to not only listen to some other ideas but to incorporate them into this bill.

As I listened to the Senator go through the bill and talk about it, particularly to talk about the changes that have been made in it, I was struck how far we have come in the course of the last year or two. I want, while you are still here, to express my thanks for the way you approached this subject and the openminded way you have enabled us to move forward.

Mr. GRASSLEY. Mr. President, if I could say this before I yield the floor, and I am going to yield the floor right away, first of all, I appreciate the statement by the Senator from Delaware. He may have missed it, but sometime in my remarks tonight I made some commentary about his efforts to help work a compromise and bring up issues that were very important to get settled in order to move to finality.

Also, Mr. President, I want to tell you as well as other Members of this body, this bill is where it is because of the urgency Senator CARPER has put on this legislation, to get it passed, because he knows of the need. He also understands the need of bipartisanship.

I hope I have given him proper credit in this way. So many times as we Senators do, we go to breakfasts or lunches to speak to groups that are interested in legislation, and they are always asking us about this bill or that bill. More often than not, particularly when I am talking to small business groups, I am often asked about when are we going to get class action reform. I say, under certain circumstances we will get it. Sometimes people compliment me because I was the prime sponsor of this legislation. But I say at every one of these meetings, they need to thank Senator CARPER whenever they see him, because no person in the Senate is trying move this bill along and do it in a bipartisan way, no one more than Senator CARPER.

I can say to Senator CARPER, I thank him very much for what he has done and I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). Who seeks recognition?

Mr. CARPER. I do.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. I thank Senator GRASSLEY for what he said. I understand Senator GRASSLEY may need to do some wrap-up here. I am not sure. If he does, I will be happy to yield.

Mr. GRASSLEY. Yes. I guess I didn't understand that was part of my responsibility. I will do that right away.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, for our leader, I ask there now be a period of morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

Mrs. BOXER. Mr. President, I rise to pay tribute to 34 young Americans who have been killed in Iraq since May 6. I have been doing this all throughout the war. All of them were from California or they were based in California.

LCpl Jeremiah E. Savage, age 21, died May 12 of wounds received due to hostile action in Al Anbar Province. He was assigned to 2nd Battalion, 4th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

SGT Brud Cronkrite died May 14 from injuries sustained in Karbala. He was assigned to the 1st Battalion, 37th Armor, 1st Armored Division, Friedberg, Germany. Sergeant Cronkrite was from Spring Valley, CA.

PFC Michael A. Mora, age 19, died May 14 in An Najaf when his military vehicle slid off the road and turned over. He was assigned to the Army's 3rd Squadron, 2nd Armored Cavalry Regiment, 1st Calvary Division, Fort Polk, LA. Private First Class Mora was from Arroyo Grande, CA.

PFC Brian K. Cutter, age 19, was found unconscious on May 13 and was later pronounced dead in Al Asad, Iraq. Cause of death is under investigation. He was assigned to 3rd Assault Amphibian Battalion, 1st Marine Division, Camp Pendleton, CA. Private First Class Cutter was from Riverside, CA.

PFC Brandon Sturdy, age 19, died May 13 from hostile fire in Al Anbar Province. He was assigned to 2nd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Bob W. Roberts died May 17 due to hostile fire in Al Anbar Province. He was assigned to 1st Combat Engineer Battalion, 1st Marine Division, Camp Pendleton, CA.

SPC Marcos Nolasco died May 18 in Baji, Iraq, as a result of an electrocution accident. He was assigned to Battery B, 1st Battalion, 33rd Field Artillery, 1st Infantry Division, Bamberg, Germany. He was from Chino, CA.

PFC Michael M. Carey, age 20, died May 18 in Iraq. He apparently fell into a canal and did not resurface. His remains were recovered on May 18. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

Cpl Rudy Salas, age 20, died May 20 from fatal injuries sustained when his vehicle was involved in an accident while conducting a resupply convoy in Al Anbar Province. He was assigned to 1st Light Armored Reconnaissance Battalion, 1st Marine Division, Camp Pendleton, CA. Corporal Salas was from Baldwin Park, CA.

Sgt Jorge A. MolinaBautista, age 37, was killed May 23 in an explosion while conducting combat operations in the Al Anbar Province. He was assigned to 1st Light Armored Reconnaissance Battalion, 1st Marine Division, Camp Pendleton, CA. He was from Rialto, CA.

PFC Daniel P. Unger, age 19, died May 25 in Forward Operating Base Kalsu during a rocket attack. He was assigned to the Navy National Guard's 1st Battalion, 185th Armor, 81st Separate Armor Brigade, Visalia, CA. He was from Exeter, CA.

LCpl Kyle W. Codner, age 19, died May 26 due to hostile action in Al Anbar Province, Iraq. He was assigned to 1st Combat Engineer Battalion, 1st Marine Division, Camp Pendleton, CA.

Cpl Matthew C. Henderson, age 25, died May 26 due to hostile action in Al Anbar Province. He was assigned to 1st Combat Engineer Battalion, 1st Marine Division, Camp Pendleton, CA.

LCpl Benjamin R. Gonzalez, age 23, was killed May 29 from an explosion while conducting combat operations in the Al Anbar Province. He was assigned to 2nd Battalion, 4th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Los Angeles, CA.

Pfc Cody S. Calavan, age 19, died May 29 due to hostile action in Al Anbar Province. He was assigned to 2nd Battalion, 4th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Rafael Reynosasuarez, age 28, was killed May 29 from an explosion while conducting combat operations in the A1 Anbar Province. He was assigned to 2nd Battalion, 4th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Santa Ana, CA.

Cpl Dominique J. Nicolas, age 25, died May 26 from hostile fire in A1